THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.20788 OF 1996

Dated 16th March 2006

Between:

Kishan Rao (Died) & others

…Petitioners

And

The Distrcit Collector (Land Reforms), R.R.District,

Lakdi-ka-pul, Hyderabad & others.

…Respondents

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O R D E R:

Originally, the writ petition is filed by one Kishan Rao and his son. During the pendency of the writ petition, Kishan Rao died and his other legal representatives, respondents 3 to 6, were brought on record.

Petitioners held various extents of land in three different survey numbers, in three villages, in Yalal Mandal of Ranga Reddy District. They filed declaration under Section 8(1) of the Andhra Pradesh Land Reforms (Ceiling & Agricultural Holdings)

Act, 1973, (for short “the Act”), in respect of their land, before the Land Reforms Tribunal (for short “the Tribunal”). Through the order, dated 31.5.1977, the Tribunal held that the petitioners are under obligation to surrender an extent of Ac.2.4685 standard holdings of land. Appeal, being L.R.A. No.2265 of 1975, filed by the petitioners before the Land Reforms Appellate Tribunal (for short “the Appellate Tribunal”) was dismissed on 3.1.1978. Petitioners filed C.R.P.No.1404 of 1978, against the order of the Appellate Tribunal. The C.R.P. was also dismissed on 10.3.1978. However, in a review application filed by the petitioners, the judgment in C.R.P., was reviewed, by order dated 25.3.1982. It was held that the lands in Sy.Nos.34, 52, 70 and 71 of Devanoor village, must be deleted from the holding of the petitioners. The matter was remanded to the Appellate Tribunal, on the limited issue, *viz*. whether the

2nd petitioner was major, as on the notified date, i.e. 1.1.1975.

On remand, the Appellate Tribunal took up the matter, as L.R.A. No.12 of 1984. Through its order, dated 31.10.1991, the Appellate Tribunal held that the 2nd petitioner was major and permitted an independent holding to him. After taking into account, the holding of the 2nd petitioner and the deletion of lands, as ordered by this Court, the Appellate Tribunal held that the petitioners are liable to surrender an extent representing 0.6722 standard holding.

Petitioners contend that, when the matter was pending before this Court in C.R.P., the Government took the possession of 2.4685 standard holdings of land, and in view of the orders passed by this Court in the review in CRP, as well as the orders of the Appellate Tribunal in LRA No.12 of 1984, the respondents are under obligation to restore the possession of 1.6722 standard holding of land to them. They contend that once the competent authorities under the Act declared that the extent to be surrendered by the petitioners is 0.6722 standard holdings, the Government is not entitled to retain any area, in excess of that.

Though 10 years have elapsed since filing of the writ petition, the respondents have not chosen to file any counter affidavit.

Heard the learned counsel for the petitioners and learned Government Pleader for Land Ceiling.

From the narration of facts in the preceding paragraphs, it is clear that as a result of adjudication by this Court, as well as by the Appellate Tribunal, after remand, it has emerged that the petitioners are found liable to surrender 0.6722 standard holdings as against initial computation of 2.4685 standard holdings, in excess of ceiling limits. The Act is expropriatory in nature, and the Government is not entitled to take any land, over and above what is determined under that Act, as excess. The order passed by the Appellate Tribunal that the excess holding of the petitioner is only 0.6722 standard holdings, has become final. The allegation of the petitioners that, even while the proceedings were pending before the Appellate Tribunal, or this Court, the respondents have taken possession of the land, to an extent of 2.4685 standard holdings, is not denied.

It is rather unfortunate that the respondents, who have exhibited their enthusiasm and spirit in taking over the
so-called excess land from the petitioners, did not do anything, in the matter of restoration of possession, according to the computation by the authorities under the Act. Such indifference or inaction on the part of the respondents is reprehensible. It amounts to unlawful retention of the property, and in fact, calls for compensation to the petitioners.

For the foregoing reasons, the writ petition is allowed, and the respondents are directed to restore the possession of the difference extent of land to the petitioners, within three months from the date of receipt of a copy of this order. It is also directed that, in case, the respondents fail to restore the possession of the land, within the time stipulated above, they shall be under obligation to pay the mesne profits for the land, tentatively put at Rs.1,000/- per acre, per year, from the date of taking possession of the said land. There shall be no order as to costs.

16th March 2006

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